

## Introduced by Senator Bowen

February 24, 2006

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An act to amend Section 14310 of the Elections Code relating to voting, and declaring the urgency thereof, to take effect immediately.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1732, as introduced, Bowen. Voting: provisional ballots.

Under existing law, a voter claiming to be properly registered, but whose qualification or entitlement to vote cannot be immediately established is entitled to vote a provisional ballot.

This bill would require that the provisional ballot be a paper ballot and would state that this amendment is declaratory of existing law.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 14310 of the Elections Code is  
2     amended to read:  
3     14310. (a) At all elections, a voter claiming to be properly  
4     registered, but whose qualification or entitlement to vote cannot  
5     be immediately established upon examination of the index of  
6     registration for the precinct or upon examination of the records  
7     on file with the county elections official, shall be entitled to vote  
8     a provisional ballot as follows:  
9     (1) An election official shall advise the voter of the voter's  
10    right to cast a provisional ballot.

(2) The voter shall be provided a *paper* provisional ballot, written instructions regarding the process and procedures for casting the provisional ballot, and a written affirmation regarding the voter's registration and eligibility to vote. The written instructions shall include the information set forth in subdivisions (c) and (d).

(3) The voter shall be required to execute, in the presence of an elections official, the written affirmation stating that the voter is eligible to vote and registered in the county where the voter desires to vote.

(b) Once voted, the voter's ballot shall be sealed in a provisional ballot envelope, and the ballot in its envelope shall be deposited in the ballot box. All provisional ballots voted shall remain sealed in their envelopes for return to the elections official in accordance with the elections official's instructions. The provisional ballot envelopes specified in this subdivision shall be a color different than the color of, but printed substantially similar to, the envelopes used for absentee ballots, and shall be completed in the same manner as absentee envelopes.

(c) (1) During the official canvass, the elections official shall examine the records with respect to all provisional ballots cast. Using the procedures that apply to the comparison of signatures on absentee ballots, the elections official shall compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration. If the signatures do not compare, the ballot shall be rejected. A variation of the signature caused by the substitution of initials for the first or middle name, or both, shall not invalidate the ballot.

(2) Provisional ballots shall not be included in any semiofficial or official canvass, except upon: (A) the elections official's establishing prior to the completion of the official canvass, from the records in his or her office, the claimant's right to vote; or (B) the order of a superior court in the county of the voter's residence. A voter may seek the court order specified in this paragraph regarding his or her own ballot at any time prior to completion of the official canvass. Any judicial action or appeal shall have priority over all other civil matters.

(3) The provisional ballot of a voter who is otherwise entitled to vote shall not be rejected because the voter did not cast his or

1 her ballot in the precinct to which he or she was assigned by the  
2 elections official.

3 (A) If the ballot cast by the voter contains the same candidates  
4 and measures on which the voter would have been entitled to  
5 vote in his or her assigned precinct, the elections official shall  
6 count the votes for the entire ballot.

7 (B) If the ballot cast by the voter contains candidates or  
8 measures on which the voter would not have been entitled to vote  
9 in his or her assigned precinct, the elections official shall count  
10 only the votes for the candidates and measures on which the  
11 voter was entitled to vote in his or her assigned precinct.

12 (d) The Secretary of State shall establish a free access system  
13 that any voter who casts a provisional ballot may access to  
14 discover whether the voter's provisional ballot was counted and,  
15 if not, the reason why it was not counted.

16 (e) The Secretary of State may adopt appropriate regulations  
17 for purposes of ensuring the uniform application of this section.

18 (f) This section shall apply to any absent voter described by  
19 Section 3015 who is unable to surrender his or her unvoted  
20 absent voter's ballot.

21 (g) Any existing supply of envelopes marked "special  
22 challenged ballot" may be used until the supply is exhausted.

23 SEC. 2. The amendment of Section 14310 of the Elections  
24 Code made by this act does not constitute a change in, but is  
25 declaratory of, existing law.

26 SEC. 3. This act is an urgency statute necessary for the  
27 immediate preservation of the public peace, health, or safety  
28 within the meaning of Article IV of the Constitution and shall go  
29 into immediate effect. The facts constituting the necessity are:

30 In order to revise voting procedures as soon as possible for  
31 purposes of the November 7, 2006, statewide general election, it  
32 is necessary that this act take effect immediately.